

ORIGINAL

2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH CRACCO,

PLAINTIFF,

5

6 -against- Case No:

7 1:14-CV-08235-PAC

8

9 THE CITY OF NEW YORK, Police Officer
JONATHAN CORREA, Shield 7869, Transit
Division District 4, and Police Officer
10 JOHN DOE (a fictitious name),

11 DEFENDANTS.

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13 DATE: May 11, 2016

TIME: 11:15 A.M.

15

16 DEPOSITION of the Plaintiff

17 JOSEPH MATTHEW CRACCO, s/h/a JOSEPH CRACCO,

18 taken by the Defendants, pursuant to a

19 Notice and to the Federal Rules of Civil

20 Procedure, held at the offices of the New

21 York County, District Attorney's Office.

22 Special Litigation Bureau, 80 Centre

23 Street New York New York 10013 be

34 Deborah Carzaniti, a Notary Public of the

25 State of New York

1 J. CRACCO
2 equipment, metro shelving, large like
3 pallets of inventory, five gallon buckets
4 of hood cleaning solution, and setting all
5 of the equipment up, hiring, training,
6 ordering, cooking.

7 Q. So the grocery store itself had
8 a kitchen?

9 A. Yes.

10 Q. Because when it opened, it
11 would sell prepackaged food, that was the
12 idea?

13 A. Correct.

14 Q. And as the sous chef, did you
15 actually cook in this prep kitchen or were
16 you setting up to open as you described?

17 A. All of the above.

18 Q. Can you please take me through
19 what you did on the morning of October 18,
20 2013, starting with when you first woke up?

31 A I don't recall.

22 Q. You were living in Old
23 Greenwich at the time; right?

24 A. Yes, we had to -- we commuted
25 on the Metro North, like 7 o'clock trains.

1 J. CRACCO

2 Q. 7:00 a.m.?

3 A. Yes, maybe it was 6:00 because
4 we had to be there by 7:00. I don't know,
5 but it was early. Probably got to work --

6 Q. Did you go with Mr. Sippel?

7 A. Yes.

8 Q. You took the train from Old
9 Greenwich to Grand Central Station;
10 correct?

11 A. Correct, and then the shuttle
12 to the west side and then worked. On our
13 way home from work --

14 Q. Before we get to when you were
15 leaving work, could you tell me what you
16 did at work that day?

17 A. I don't recall specifics.

18 Q. Do you recall anything that you
19 did at work that day?

20 A. Not specifically.

21 Q. Who else was with you at work
22 that day?

23 A. There were half a dozen
24 employees in the kitchen at that time, plus
25 multiple deli, grocery store employees.

1 J. CRACCO

2 Q. What were the employees in the
3 kitchen doing?

4 A. I don't recall.

5 Q. What were the employees in the
6 deli doing?

7 A. I do not recall.

8 Q. When you say "half a dozen," is
9 that total between the kitchen and the
10 deli?

11 A. No. In total at the restaurant
12 there were probably or in the building at
13 that time there were 12 employees, possibly
14 more. I do not recall specifics.

15 Q. Again, you can't recall if the
16 grocery store was opened as of that date?

17 A. I don't remember.

18 Q. Is there anything at all that
19 you can recall doing at work that day?

20 A. Unpacking boxes, yes, because I
21 remember I had glue residue from like the
22 clear packing tape from the boxes on my
23 knife. I even pointed that out to the
24 officer.

25 Q. What type of boxes were you

1 J. CRACCO

2 unpacking?

3 A. I don't remember what it was.

4 It was a lot of them.

5 Q. Large boxes, small boxes?

6 A. Large boxes.

7 Q. What was in the boxes?

8 A. I don't recall. It could have
9 been shelving. It could have been a lot of
10 things. I don't recall specifically.

11 There was a lot that day.

12 Q. Can you describe for me how you
13 unpacked the boxes?

14 A. I used my knife to cut the
15 packing tape, packing straps, because we
16 were receiving a lot of pallets of
17 inventory and they always have large
18 packing straps and they are wrapped in
19 bubble wrap or sticky tape, clear-sided
20 tape, and then breaking down the cardboard
21 and putting the inventory away.

22 Q. And that's the same knife that
23 you had on your person when you were
24 arrested; correct?

25 A. Yes.

1 J. CRACCO

2 Q. That's the knife that Officer
3 Correa determined to be a gravity knife;
4 correct?

5 A. Correct.

6 Q. Did there come a time when you
7 left work?

8 A. Yes.

9 Q. What time was that?

10 A. Shortly before I was arrested.

11 Q. Do you remember approximately
12 what time?

13 A. I do not.

14 Q. How long of a day would you
15 normally work around that time period in
16 October of 2013?

17 A. 12 hours.

18 Q. You mentioned earlier that you
19 had to be at work by 7:00 a.m.?

20 A. Yes.

21 Q. Would it be fair to say then
22 that you left work at approximately
23 7:00 p.m.?

24 A. Possibly. I might have left
25 early that day. I do not recall.

1 J. CRACCO

2 Q. When you left work, what did
3 you have with you?

4 MR. MALONEY: Objection to the
5 form. You can answer.

6 A. My backpack, clothes, shoes.

7 Q. Did you have your knife?

8 A. Yes.

9 Q. You mentioned that you had a
10 backpack?

11 A. Yes, or this backpack actually,
12 a little side satchel.

13 Q. The same bag that you brought
14 to the deposition today?

15 A. Yes.

16 Q. For the record, I am looking at
17 it right now. It is a brown and black
18 messenger bag that looks to fit, what would
19 you say, three gallons maybe?

20 A. Sure.

21 Q. You mentioned that you had the
22 knife as well when you left work?

23 A. Yes.

24 Q. Where was the knife?

25 A. In my right pants pocket.

1 J. CRACCO

2 Q. Front or back?

3 A. Front.

4 Q. Was it clipped to your pocket?

5 A. Yes.

6 Q. So the clip was visible?

7 A. Yes.

8 Q. If somebody were to look at
9 you?

10 A. Yes.

11 Q. Was anyone with you when you
12 left work?

13 A. Jared Sippel.

14 Q. Anyone else?

15 A. No.

16 Q. Why did you have the knife
17 clipped to your pants?

18 A. That is where I always kept it.

19 Q. Is that where you kept it when
20 you were at work?

21 A. Yes.

22 Q. Why did you keep it clipped to
23 your pants when you were at work?

24 A. That's where I always kept it.

25 Q. Is it because it was easily

1 J. CRACCO

2 accessible to you when it was clipped to
3 your pants?

4 A. Yes.

5 Q. When you left work, why didn't
6 you put the knife in your backpack?

7 A. Because I always kept it in my
8 pocket.

9 Q. Did you think that you would
10 need to use the knife on the subway?

11 A. No.

12 Q. Is there any reason, other than
13 the fact that that's where you always kept
14 it, why you left the knife clipped to your
15 pants when you left work?

16 A. No.

17 Q. So where did you go after you
18 left work?

19 A. The S Train. I transferred off
20 47th Street to Grand Central to take the
21 Metro home.

22 Q. Did there come a time when you
23 were arrested?

24 A. Yes.

25 Q. What led up to your arrest?

1 J. CRACCO

2 Let's start earlier. Were you arrested in
3 the station where you took the S Train or
4 did that happen when you got to 42nd
5 Street?

6 A. When we got to 42nd Street, it
7 was coming off the platform, I had just
8 started to take the stairs up to Grand
9 Central and Officer Correa stopped me.

10 Q. So you were coming off the
11 platform from the S Train?

12 A. Correct.

13 Q. Where were you when you first
14 saw Officer Correa?

15 A. On the platform.

16 Q. So you first saw him on the
17 platform, but then he actually stopped you
18 as you were on the stairs? I am just
19 trying to understand how this happened.

20 A. Yes.

21 Q. What was he doing when you
22 first saw him on the platform?

23 A. Standing there.

Q. Did he say anything to you?

25 A. Hey you or something along

1 J. CRACCO

2 those lines.

3 Q. Did he ask you to stop?

4 A. Yes, yes.

5 Q. Where were you when he asked
6 you to stop?

7 A. On the stairs.

8 Q. On the stairs going up into
9 Grand Central?

10 A. Correct.

11 Q. Did he say anything to you at
12 that point?

13 A. Yes.

14 Q. What did he say?

15 A. I don't recall specifics. Hey,
16 come here, and then he asked if that was a
17 knife. I said -- I think that is what he
18 said, something along those lines. He
19 referenced my pocket knife and I gave it to
20 him.

21 Q. Did he ask for it or did you
22 just give it to him?

23 A. I am pretty sure he asked for
24 it.

25 Q. Did you hand it to him?

1 J. CRACCO

2 A. I am pretty sure, yes. I am
3 pretty sure I handed it to him.

4 Q. Where was Mr. Sippel at this
5 point?

6 A. Like more up the steps.

7 Q. Where were you in relation to
8 Mr. Sippel?

9 A. The bottom of the steps.

10 Q. Was the subway crowded at that
11 time?

12 A. No.

13 Q. Were the stairs crowded at that
14 time?

15 A. No.

16 Q. Was it rush hour?

17 A. I don't think so.

18 Q. How many steps above you was
19 Mr. Sippel?

20 A. I don't know specifically.

21 Q. What happened after you gave
22 Officer Correa the knife?

23 A. He attempted to open it with a
24 whipping motion and --

25 MS. KRASNOW: For the record,

1 J. CRACCO

2 the Witness flicked his wrist when he
3 testified about the whipping motion.

4 Q. Is that a fair
5 characterization?

6 A. That is, yes, of course. And
7 then -- I am sorry. Where were you?

8 MS. KRASNOW: Can you read back
9 my last question.

13 Q. The whipping motion that you
14 described where you demonstrated by
15 flicking your wrist, did Officer Correa do
16 the wrist flick away from his body?

17 A. Yes. I mean you couldn't flick
18 it towards you, but.

19 Q. What happened after Officer
20 Correa flicked his wrist while holding the
21 knife?

22 THE WITNESS: Read it back to
23 me. I apologize.

24 (Whereupon, the referred to
25 question was read back by the

1 J. CRACCO

2 Reporter.)

3 A. It didn't open. It didn't
4 open. On the fifth try it opened and he
5 said, oh, it is a gravity knife. No, it is
6 not. It took you five tries. Oh, it
7 doesn't matter. And then he searched me.
8 He handcuffed me, then searched me, then
9 took me to jail. Not to jail. I had to go
10 to some other train platform where I stood
11 waiting handcuffed for a while and then we
12 went above ground and some other cops
13 picked us up and then we drove to a
14 different station, central booking, I
15 presume.

16 Q. When you say that it took him
17 five tries to open the knife, do you mean
18 that it took him five flicks of his wrist
19 to open the knife?

20 A. Yes.

21 Q. Did the knife open on the fifth
22 time that Officer Correa flicked his wrist?

23 A. Yes.

24 Q. Did the blade lock into place?

25 A. I don't remember.